

Debra P. Hackett
Clerk, U.S. District Court
15 LEE ST STE 206
MONTGOMERY AL 36104-4055

April 16, 2008

Appeal Number: 07-15927-A
Case Style: Gene Coggins v. Linda Harris
District Court Number: 07-00991 CV-F-E ()

TO: Gene Coggins

CC: Linda Harris

CC: Debra P. Hackett

CC: Administrative File

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

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April 16, 2008

Gene Coggins
1436 COUNTY ROAD 299
LANETT AL 36863-5740

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The following action has been taken in the referenced case:

The enclosed order has been ENTERED.

Pursuant to Eleventh Circuit Rule 42-1(b) you are hereby notified that upon expiration of fourteen (14) days from this date, this appeal will be dismissed by the clerk without further notice unless you pay to the **DISTRICT COURT** clerk the \$450 docket and \$5 filing fees (total of \$455), with notice to this office.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: Deborah Owens (404) 335-6180

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-15927-A

GENE COGGINS,

Plaintiff-Appellant,

versus

LINDA HARRIS,
Revenue Commissioner of Tallapoosa County,

Defendant-Appellee.

Appeal from the United States District Court for the
Middle District of Alabama

ORDER:

Appellant seeks leave to proceed on appeal in forma pauperis ("IFP"). Because appellant seeks leave to proceed IFP, his action is subject to a frivolity determination. 28 U.S.C. 1915(e)(2)(B). An action is frivolous if it is without arguable merit either in law or fact. Napier v. Preslicka, 314 F.3d 528, 531 (11th Cir. 2002). In his complaint, appellant sought to raise a due process claim against the Revenue Commissioner for Tallapoosa County, Alabama, for assessing an estate tax against appellant's mother's estate. Appellant claimed that because his mother did not have any property at the time of her death, the Revenue Commissioner could not assess a tax against

the estate.

The district court dismissed appellant's complaint for failure to state a claim. Because appellant did not allege that the state of Alabama failed to provide him with the opportunity to contest the tax, he failed to state a procedural due process claim. Moreover, he could not do so because Alabama law clearly provides for a process for contesting tax assessments. See Ala. Code § 40-2A-7. Also, because he stated only a claim for deprivation of a state-created property right, he failed to state a substantive due process claim. See Greenbrier Village, L.L.C. v. Mountain Brook, City, 345 F.3d 1258, 1263 (11th Cir. 2003). Accordingly, appellant's motion for leave to proceed on appeal in forma pauperis is DENIED because the appeal is frivolous. See Pace v. Evans, 709 F.2d 1428 (11th Cir. 1983).

A handwritten signature in black ink, appearing to read "H. F. Ziegler", is written above a horizontal line.

UNITED STATES CIRCUIT JUDGE